

REMARKS

Claims 1, 3-5, and 7-16 are pending. By this amendment, claim 16 is amended. The amendment to claim 16 is minor and raises no new issues. Entry is requested.

The Office Action rejects claims 1, 3-5, and 7-16 under the judicially created doctrine of obviousness-type double patenting over claims 1-14 of co-pending applications 10/614,859, 10/614,860, 10/614,861, 10/614,862 and 10/614,864. Although Applicant believes that this rejection is improper because the claims recite patentably distinct elements, Applicant hereby submits a Terminal Disclaimer to overcome the provisional obviousness-type double patenting rejection based on a nonstatutory double patenting ground. Accordingly, it is requested that the rejection be withdrawn.

Additionally, the Office Action indicates that the Information Disclosure Statement filed July 9, 2003 does not comply with 37 CFR 1.98(a)(2) because copies of the foreign references were not supplied. However, copies of the foreign references were not supplied since these references are of record in parent application 09/819,636 (now USP 6,745,261), from which this application claims priority. The facts were indicated on the July 9, 2003 IDS, and the Examiner is obligated to consider these references.


Applicant hereby submits a Request to Consider Previously Disclosed Information, along with the 1449s for consideration of the previously submitted references.

For the above reasons, it is submitted that the application is in condition for allowance. A Notice of Allowance in due course is solicited. The Office is hereby authorized to charge any additional fees or credit any overpayment to Deposit Account No. 11-0600.

Should the Examiner have any questions concerning this matter, he is invited to contact Applicants' undersigned attorney at 202/220-4334.

Respectfully submitted,

Date: June 23, 2005



David J. Zibelli
Registration No. 36,394

KENYON & KENYON
1500 K Street, N.W. - Suite 700
Washington, D.C. 20005-1257
Tel: (202) 220-4200
Fax: (202) 220-4201